

## Message Text

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ORIGIN ARA-10

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DRAFTED BY ARA/LA/PAN:ENADEAU:JVC

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L/ARA:MKOZAK (DRAFT)

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SMITHSONIAN:RDIERKER (DRAFT)

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SMITHSONIAN, MR. POWERS

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P 192200Z SEP 75

FM SECSTATE WASHDC

TO AMEMBASSY PANAMA PRIORITY

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E.O. 11652: N/A

TAGS: PFOR, PN

SUBJECT: PROPOSED USG-GOP AGREEMENT ON SMITHSONIAN  
TROPICAL RESEARCH INSTITUTE (STRI)

1. BELIEVE BEST COURSE TO TRY TO BREAK IMPASSE REPORTED  
PANAMA 5439 IS INFORMAL CONSULTATION WITH FONOFF TO  
EXPLORE POSSIBILITY OF AMENDING SIXTH CLAUSE OF THE  
AGREEMENT PROPOSED IN LAW NUMBER 57.

2. SUGGEST CLAUSE BE AMENDED TO CONFORM TO LANGUAGE  
FOUND IN CONTRACT WITH GORGAS MEMORIAL INSTITUTE OF  
TROPICAL AND PREVENTIVE MEDICINE, WHICH IS:

"IN CASE OF DIFFERENCE OF OPINIONS PERTAINING TO THE  
INTERPRETATION OF THE CLAUSES OF THIS CONTRACT THE  
CONCESSIONARY AGREES TO BE SUBJECTED TO THE DECISIONS  
OF A COURT OF JUSTICE OF THE REPUBLIC OF PANAMA."

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3. EMBASSY MAY WISH STRESS THAT THIS POSSIBILITY AND  
LANGUAGE WAS BROUGHT TO OUR ATTENTION BY OZOES IN NOTE  
OF JULY 31, 1975.

4. SIXTH CLAUSE OF THE AGREEMENT PROPOSED IN LAW 57  
COULD BE ALTERED TO READ AS FOLLOWS:

"THE INSTITUTE IS SUBJECT TO THE LAWS OF THE REPUBLIC OF  
PANAMA AND IN CASE OF DIFFERENCE OF OPINIONS PERTAINING  
TO THE INTERPRETATION OF THE CLAUSES OF THIS CONTRACT  
THE INSTITUTE AGREES TO BE SUBJECTED TO THE DECISIONS  
OF A COURT OF JUSTICE OF THE REPUBLIC OF PANAMA."

5. ABOVE LANGUAGE WOULD GUARANTY THAT INSTITUTE WOULD  
BE TREATED AS A PRIVATE INSTITUTION AND THAT CLAIMS IN  
THE MATTER OF DIPLOMATIC AND SOVEREIGN IMMUNITY WOULD  
NOT BE RAISED. LANGUAGE, HOWEVER, PERMITS US TO MAKE  
DIPLOMATIC CLAIMS TO RIGHTS AND DUTIES ARISING UNDER  
THE AGREEMENT OR UPON A DIPLOMATIC CLAIM BASED ON A  
VIOLATION OF INTERNATIONAL LAW WHICH WOULD NOT BE PER-  
MITTED UNDER CLAUSE SIX OF LAW 57.

6. HOPE POSSIBILITY OF AMENDMENT AND ABOVE LANGUAGE CAN  
BE ACCEPTED BY FONOFF AS REASONABLE COMPROMISE. WE ARE  
CONTINUING TO EXPLORE OTHER OPTIONS WITH SMITHSONIAN  
OFFICIALS, BUT SO FAR AMENDMENT IS ONLY APPARENT SOLUTION  
AND QUITE ACCEPTABLE TO STRI IF IT CAN BE EFFECTED  
RAPIDLY.

7. PLEASE ADVISE FONOFF REACTION AND, IF FAVORABLE,  
PROCEDURE AND ESTIMATE OF TIME REQUIRED TO OBTAIN  
APPROVAL OF AMENDMENT. KISSINGER

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## Message Attributes

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